

# KING COUNTY DISTRICT COURT

## PROPOSED REVISION TO LOCAL RULE IRLJ 6.7

DATE: September 21, 2009  
TO: Interested Persons  
FROM: King County District Court Rules Committee  
SUBJECT: Seeking Comments on Proposed Local Infraction Rule 6.7(a)

**The King County District Court Rules Committee is seeking public comment on a proposed rule adding a local infraction rule, LIRLJ 6.7(a), Relief From Judgment or Order. The proposed rule is an attempt to simplify the procedure for seeking relief from a judgment or order in infraction cases filed in the King County District Court, and to specify when a hearing on a motion for relief will be set. A copy of the proposed rule is available on the King County District Court's website. The comment period runs through October 31, 2009. Comments should be sent to the attention of the King County District Court webmaster at: [Kcdcwebmaster@kingcounty.gov](mailto:Kcdcwebmaster@kingcounty.gov) or mailed to:**

---

Under the current state infraction rule, IRLJ 6.7(a), Relief From Judgment or Order, the procedure for seeking relief is not contained in that rule but set forth in CRLJ 60. Under the provisions of CRLJ 60, the party seeking relief must submit a written motion and affidavit setting forth the grounds for relief. The rule then requires the court to issue an order setting a time for a hearing and directing all parties to "appear and show cause" why the relief requested should not be granted. Under the current rule the moving party must serve the motion, affidavit and order upon the opposing party, as in the case of a summons in a civil action.

As a practical matter, this procedure is rarely, if ever followed. The court annually receives hundreds of requests for relief from judgment or order in infraction cases, usually in the form of a letter from the driver. The reasons for requesting relief vary, E.g., the driver missed the hearing due to illness; the driver simply forgot the hearing date; the driver did not receive notice of the hearing date; the driver failed to timely ask for a hearing and a failure to appear [FTA] was ordered; the driver needs additional time to pay the penalty; the driver did not receive a copy of an infraction issued via a summons. This is by no means an exhaustive list of the reasons given by drivers.

Because the procedures set forth in the current state rule are cumbersome and rarely followed, and in order to provide a more simplified process for seeking relief in infractions cases, the proposed local rule IRLJ 6.7(a) was drafted. The draft rule is generally modeled after CRLJ 60 and CrRLJ 7.8, but not in all respects. The Rules Committee appreciates receiving your comments.

# **DRAFT**

## **LIRLJ 6.7(a)**

### **RELIEF FROM JUDGMENT OR ORDER**

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. Such mistakes may be so corrected before review is accepted by the superior court and thereafter may be corrected by order of the superior court.

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party from a final judgment, order, or proceeding for the following reasons:

(1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;

(2) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under the provisions of CrRLJ 7.5;

(3) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

(4) The judgment is void; or

(5) Any other reason justifying relief from the operation of the judgment.

(c) The motion shall be made within a reasonable time and for reasons (1) and (2) not more than 1 year after the judgment, order, or proceeding was entered or taken. A motion under this section does not affect the finality of the judgment or suspend its operation.

(d) Procedure on Vacation of Judgment.

(1) Motion. Application shall be made by motion stating the grounds upon which relief is asked, and supported by affidavit or declaration of the applicant or applicant's attorney, setting forth a concise statement of the facts or errors upon which the motion is based.

(2) Consideration of Motion

(i) The court may decide the motion without hearing based on section (b)(1) if the motion, affidavit or declaration, and court's records establish the moving party is entitled to the requested relief.

(ii) If a contested hearing on the merits was previously held, the court shall not grant exparte relief based on section (b)(1). A show cause hearing with notice to the adverse party shall be schedule.

(iii) The court may deny the motion without a hearing if the facts alleged in the affidavit or declaration do not establish grounds for relief.

(iv) The court may enter an order fixing a time and place for hearing and directing the adverse party to appear and show cause why the relief asked for should not be granted.

(3) Interim Relief The court may enter an order recalling any notice to the Department of Licensing regarding the party's failure to appear or failure to respond to an infraction or referral to collections pending the outcome on the motion.

(4) Service. No later than 14 days before the scheduled hearing, the moving party shall serve a copy of the motion, affidavit or declaration, and order to show cause upon the other party or the party's attorney, as provided in CrRLJ 8.4(b), and file proof of service with the court.